

**DATE:** August 12, 2016

**TO:** ALL INTERESTED PARTIES

/s/ **SUZANNE M. AMBROSE**

**FROM:** Suzanne M. Ambrose  
Executive Officer

**SUBJECT: NOTICE OF PROPOSED REGULATIONS**

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**Notice is hereby given** that the State Personnel Board (Board) proposes to adopt the regulatory changes described below. The Board will consider any and all comments, objections, or recommendations that may be submitted regarding this proposed action.

### **PUBLIC HEARING**

A public hearing regarding the proposed regulatory action will be held on September 29, 2016, from 10:00 a.m. to 12:00 p.m., in Room 150 at 801 Capitol Mall, Sacramento, California.

### **WRITTEN COMMENT PERIOD**

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below.

Jeanne R. Wolfe  
Senior Attorney  
State Personnel Board  
801 Capitol Mall, MS 53  
Sacramento, CA 95814  
Fax: (916) 653-1280  
Email: [jeanne.wolfe@spb.ca.gov](mailto:jeanne.wolfe@spb.ca.gov)

The written comment period closes on September 26, 2016, at 5:00 p.m. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

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## **AUTHORITY AND REFERENCE/POLICY STATEMENT OVERVIEW**

The Board proposes the amendment of sections 52.4, 548.49, and 548.136 of Title 2, Chapter 1 of the CCR pursuant to the authority vested in it by the California Constitution, article 7, section 3, and Government Code sections 18502, 18701, and 19889.2. The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 18675, 19889, 19889.2, and 19889.3.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **INFORMATIVE DIGEST**

#### **A. Summary of Existing Laws and Regulations Related to the Proposed Action**

The Board is a constitutional body responsible for enforcing California's civil service statutes. (Cal. Const., art. VII, § 3.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*) The Board also establishes rules implementing and enforcing the merit principle in the state civil service system. (Gov. Code, § 18660; see Cal. Const., art. VII, § 1, subd. (b).) Consistent with the merit principle, the Board promulgates rules to govern classifications, examinations, probationary periods, disciplinary actions, and other matters related to its authority under Article VII of the California Constitution. (Gov. Code, § 18502, subd. (b).)

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) Regulations concerning Board hearing procedures related to disciplinary and merit matters are not exempt from the APA. (Gov. Code, § 18215, subd. (a)(2).) Nonetheless, the following portions of the APA do not apply to this regulatory action (Gov. Code § 18215, subd. (b)(1) through (8)):

- (1) Government Code section 11346.2, subdivisions (a)(1) and (b)(4) and (5) [technical terms; alternatives; and evidence or documents];
- (2) Government Code section 11346.3 [economic impact on business enterprises and individuals];
- (3) Government Code section 11346.4, subdivision (a)(3) [mail to small business enterprises];
- (4) Government Code section 11346.5, subdivision (a)(3)(B), (5), & (7) through (12) [comparable federal law; mandate on local agencies or school districts; adverse impact on businesses; cost impact on representative private person or business; results and finding of economic impact assessment; and effect on housing costs];
- (5) Government Code section 11346.9, subdivision (a)(2), (4), & (5) [mandate on local agencies or school districts; alternatives; rejection of alternatives];

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- (6) Government Code section 11347.3, subdivision (b)(6) and (7) [data, factual information, and empirical studies or reports];
- (7) Government Code section 11349, subdivisions (a), (e), and (f) [specified definitions]; and
- (8) Government Code section 11349.1, subdivision (a)(1), (5), and (6) [standards of OAL review].

## **B. Policy Statement Overview**

This proposed regulatory action will improve the organization of the Board's regulations by grouping appeals from Career Executive Assignment (CEA) terminations and examinations with other civil service appeals. This proposed change will thus make it easier to find the rules related to CEA appeals. This proposed regulatory action also updates the Board's appeal-related regulations to include appeals from online examinations. The proposed changes will make CEA appeals consistent with other civil service appeals, thereby simplifying appeal procedures and eliminating subjective standards. The proposed amendments will also ensure that the Board's regulations are up to date with current discrimination and prohibited acts laws and any future changes to those laws. Other changes include re-numbering regulations and non-substantive style changes needed for consistency and clarity.

## **C. Evaluation of Consistency and Compatibility with Existing State Regulations**

In reviewing other state regulations, the Board found that the instant regulatory proposal is consistent and compatible with existing state regulations.

### **ANY OTHER MATTERS PRESCRIBED BY STATUTE:**

None.

### **DETERMINATION OF COSTS OR SAVINGS:**

The Board has made the following initial determinations:

- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: Given that this proposed regulatory action amends, clarifies, and updates the Board's existing regulations without creating additional duties on state agencies, the Board expects that any costs or savings to State agencies will be minimal, if any.
- Other nondiscretionary cost of savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None.

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## **CONTACT PERSONS:**

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Jeanne R. Wolfe  
Senior Attorney  
State Personnel Board  
801 Capitol Mall, MS 53  
Sacramento, CA 95814  
Phone: (916) 651-0924  
Fax: (916) 653-1280  
Email: [jeanne.wolfe@spb.ca.gov](mailto:jeanne.wolfe@spb.ca.gov)

In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Lori Gillihan  
Chief, Policy and Compliance Review  
State Personnel Board  
801 Capitol Mall, MS 53  
Sacramento, CA 95814  
Phone: (916) 651-0924  
Email: [lori.gillihan@spb.ca.gov](mailto:lori.gillihan@spb.ca.gov)

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Senior Attorney Wolfe at the above address.

## **AVAILABILITY OF RULEMAKING FILE:**

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, Fax: (916) 653-1280. Items 1 through 3 are also available on the Board's website at [www.spb.ca.gov](http://www.spb.ca.gov) under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

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### **AVAILABILITY OF CHANGED OR MODIFIED TEXT:**

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the person at the address indicated above. The Board will accept written comments on only the modified regulations for 15 days after the date on which they are made available to the public.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET:**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed on the Board's website at [www.spb.ca.gov](http://www.spb.ca.gov) under "What's New?"